

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 07 CR 50069
v.)	P. Michael Mahoney
)	
BROCK BARRETT)	

DEFENDANT BARRETT'S MOTION FOR DISCOVERY

Now comes, Defendant BROCK BARRETT, by TERENCE F. MACCARTHY of the FEDERAL DEFENDER PROGRAM and its attorney HANEEF OMAR, and pursuant to Federal Rule of Criminal Procedure 16, and the Fifth and Sixth Amendments to the United States Constitution asserts as follows; that:

1. As the result of the execution of the search warrant dated November 19, 2007 (a copy of such search warrant documents are attached hereto and made a part hereof as Defendant's Exhibit 1), the defendant stands charged in a two count indictment as follows:
 - a) Possession of a firearm by a felon in violation of 18 U.S.C. §922(g)
 - b) Possession with intent to distribute a controlled substance in violation of 21 U.S.C. §841.
2. The defendant believes he is entitled to certain discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure as it relates to preparing a defense in his case.
3. The below enumerated information is necessary for the defendant to

properly prepare pre-trial motions relating to the search of 636 16th Avenue, Upper Apartment, Rockford, IL. Specifically, the defendant denies selling any drugs and intends to file a motion to quash the above referenced search warrant and suppress physical evidence obtained as a result of the execution of that warrant, and further, the defendant intends to seek a hearing pursuant to *Franks v. Delaware*, 438 U.S. 154, (1978) alleging that untrue statements were either knowingly and intentionally or with reckless disregard for the truth included in the affidavit in support of the complaint for search warrant.

4. The requested information is as follows:
 - a. The identity of the confidential informant described in the November 19, 2007 affidavit (which was attached to the November 19, 2007 complaint for search warrant as Exhibit 1).
 - b. The identities of any confidential informant who may be called to testify at trial or any hearing regarding this case and production of all reports summarizing information given by that confidential informant or statements made by such person regarding this case.
 - c. Production of all physical evidence gathered by the police in this case including the drugs recovered on November 19, 2007 from 636 16th Avenue, Upper Apartment, Rockford, IL.
 - d. The specific date and time of the execution of the controlled buy.
5. The defendant has requested this information, however, the government

has declined to produce this discovery.

6. Mr. Barrett asserts that certain information contained in the November 19, 2007 affidavit which is attributed to the so-called controlled buy informant is untrue. Among such untruthful information contained therein is the assertion that the confidential informant bought crack cocaine from an unknown black male at 636 16th Avenue, Upper Apartment, Rockford, IL. The defendant requires disclosure of the identity of such alleged informant and the specific date and time of the controlled buy in order to obtain an evidentiary hearing pursuant to the *Franks v. Delaware* decision.
7. Additionally, the affidavit for search warrant states that the Rockford Police officers witnessed the confidential informant go directly to the upper apartment when in fact the door leading to the upper apartment also leads to the lower apartment and is out of any view the police may have had.

WHEREFORE, the defendant prays that this Court enter an Order requiring the government to disclose, as follows:

1. The identity of the "controlled buy" confidential informant as specified in the November 19, 2007 affidavit attached as an exhibit to the November 19, 2007 complaint for search warrant (Defendant's Exhibit 1).
2. The names of all previously unnamed informants who may testify at any

